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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

MARIA CALAMATEOS,

Plaintiff,

v.

MICHAEL J. ASTRUE,
 Acting Commissioner of
 Social Security,

Defendant.

CIVIL NO. C10-02900 LHK

STIPULATION AND ORDER FOR
 REMAND UNDER SENTENCE FOUR OF
 42 U.S.C. § 405(g)

IT IS HEREBY STIPULATED by the undersigned for the respective parties, subject to the approval of the Court, that this action be remanded to the Defendant, Commissioner of Social Security, pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

In the pre-hearing brief submitted to the ALJ, Plaintiff explicitly requested to amend her alleged onset date to July 26, 2004 (AR 162). According to the Commissioner's internal policy, the ALJ is required to address such explicit requests to reopen and revise an earlier final determination and the ALJ's bench decision did not address the issue. HALLEX I-2-9-1. At the hearing, the ALJ did not accept the request to amend the alleged onset date because he was under the impression there was no Title II claim filed in connection with the present case, which is not accurate (see AR 68-70 (December 2006 initial denial of Title II claim)). Additionally, the reasoning the ALJ expressed at the hearing did not address Plaintiff's request to reopen the protective Title II and actual Title XVI applications she filed in February 2004.

1 Accordingly, upon remand, the ALJ will be directed to address Plaintiff's request for reopening and
2 revision of the prior applications, which were initially denied on March 4, 2005. If the ALJ does not reopen
3 the 2004 applications, he must address Plaintiff's 2006 Title II application, which he mistakenly believed
4 had not been filed.

5 It is further stipulated that the administrative decision is hereby vacated and that the Clerk of this
6 Court shall be directed to enter a separate judgment herein, as provided for under Rules 58 and 79(a) of the
7 Federal Rules of Civil Procedure, pursuant to Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625 (1993).

8 Dated: February 24, 2011

/s/ Harvey P. Sackett
(As authorized on February 24, 2011)
HARVEY P. SACKETT
Attorney for Plaintiff

11 MELINDA L. HAAG
12 United States Attorney

13 Dated: February 24, 2011

By: /s/ Elizabeth Firer
ELIZABETH FIRER
Special Assistant United States Attorney

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17 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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20 Dated: March 3, 2011


LUCY H. KOH
United States District Judge